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ATTORNEYS FOR: Plaintiff,
CHURCH OF SCIENTOLOGY OF CALIFORNIA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY OF CALIFORNIA,
Plaintiff,
vs.
GERALD ARMSTRONG,
Defendant.
MARY SUE HUBBARD,
Intervenor.

CASE NO. C 420153
DECLARATION OF JOHN G.
PETERSON IN OPPOSITION TO
MOTION FOR ATTORNEY'S FEES
DATE: August 2, 1984
TIME: 8:00 a.m.
DEPT: 57

I, JOHN G. PETERSON, declare:

1. This declaration is submitted in opposition to defendant's Motion for Attorney's Fees, pursuant to Code of Civil Procedure Section 1021.5. Plaintiff, CHURCH OF SCIENTOLOGY OF CALIFORNIA, joins in and adopts by reference the Memorandum in Opposition to Motion for Attorney's Fees filed herein by intervenor, MARY SUE HUBBARD.

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2. Defendant's motion can best be described as a poor attempt to add insult to injury. The defendant's moving papers are an affront to the intelligence and integrity of this Court

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1 and the legal profession. This fee request is an insult to
2 good intentioned legislators who enacted Code of Civil Procedure
3 Section 1021.5, and is ironic since this case was pursued by
4 GERALD ARMSTRONG'S attorneys primarily to use this Court as a
5 discovery tool for other litigation and as an avenue for media
6 coverage to extort settlement of other litigation against
7 Mr. Hubbard and the CHURCH.

8 3. GERALD ARMSTRONG'S moving papers transparently and
9 despicably use a quote from the Bible and a reference to
10 Jonestown all on the front page. The papers go on to paint
11 GERALD ARMSTRONG as a great protector of truth who risked life
12 and limb to expose the "illegal and unconstitutional actions"
13 of the plaintiffs all to a "significant public benefit and will
14 further constitutional freedoms." However, nowhere does GERALD
15 ARMSTRONG ever state exactly what these public benefits are and
16 how the fact that he stole documents and invaded a person's pri-
17 vacy can further constitutional freedoms:

18 4. GERALD ARMSTRONG'S unsupported claims of public benefit
19 should not come as a surprise since all of his trial allegations
20 were never supported by evidence. GERALD ARMSTRONG'S attorney,
21 on page 9, lines 20 through 28, and page 10, lines 1 and 2,
22 attempt to explain the claim for public benefit and constitutional
23 significance. After reading these lines several times, anyone
24 with any first year of law school education would be compelled to
25 conclude: (1) It is incoherent; (2) the person writing the lines
26 does not understand constitutional law; (3) the person writing
27 these lines is audacious in seeking fees for "legal" work; and
28 (4) any response is impossible and would only dignify the lines

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1 by educating the person who wrote them.

2 5. The Court should examine what the attorneys for GERALD
3 ARMSTRONG really sought in this case. They argued that there was
4 a novel and heretofore unheard of in law defense called "justi-
5 fication". This is, GERALD ARMSTRONG because he believed his
6 life was in danger and that "harassing lawsuits" were forthcoming
7 he could steal evidence and send it to his lawyer for use in this
8 "potential" litigation. Defendant's attorneys also asserted
9 that if a person feels he may be physically harmed, he can steal
10 materials and threaten to or even publicize these private
11 materials as a deterrent.

12 6. While these purported "defenses" advocate the worst
13 kind of lawlessness and vigilantism, defense counsel totally
14 failed at trial to produce any evidence to support these novel
15 defenses. First, GERALD ARMSTRONG had no reasonable belief he
16 was going to be sued. ARMSTRONG himself testified that he knew of
17 no one who had ever left the CHURCH and been sued. It is un-
18 reasonable to conclude and foolish to believe that the incident
19 where his ex-wife told him to "get a lawyer" could mean anything
20 other than advice that if ARMSTRONG wanted the photos returned,
21 ARMSTRONG would have to sue the CHURCH. How strange that this is
22 the person found to be fearful of his life and terrified of this
23 organization, yet he was marching up to the CHURCH'S main offices
24 shouting and demanding "his pictures". Did defendant produce
25 witnesses who said they had left the CHURCH, been critical and
26 then been sued? No evidence was produced at trial, simply be-
27 cause none exists. The only thing the Court heard was the
28 ravings of Flynn.

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1 7. The only reasonable way to view the evidence clearly
2 shows that GERALD ARMSTRONG stole the documents for use in his
3 case against the CHURCH. He left the CHURCH, was unskilled,
4 had no job and he visited Flynn, a notorious anti-Scientology
5 plaintiff's lawyer, who obviously conspired with ARMSTRONG to
6 steal the documents for use in their cases. It is naive to think
7 that ARMSTRONG'S massive theft of marginally relevant documents
8 is simply overkill. That is also why Flynn argued so strenuously
9 that the Court do his discovery for him and hold the documents
10 for use in the Cross-Complaint and other litigation Flynn is
11 involved in.

12 8. Defense counsel claim they have exposed the CHURCH'S
13 policy of blackmailing former members by use of PC material
14 (page 4, lines 9 through 10). Flynn argued that the CHURCH
15 blackmailed people. However, no witness was ever produced who
16 testified that they had been either threatened with or black-
17 mailed by the CHURCH. Defense counsel, without legal support
18 or evidence, asked this Court to find that the CHURCH practices
19 this policy. Also, how could ARMSTRONG reasonably fear blackmail
20 when he had no knowledge of any instances of it prior to his
21 theft of the documents?

22 9. Defense counsel should not be compensated for conducting
23 a heresy trial. This Court took judicial notice of the fact that
24 Scientology is a religion and has rights under the First Amendment
25 This Court correctly ruled that it could not inquire into or
26 evaluate the merits, accuracy or truthfulness of Scientology. Yet
27 defense counsel sought to try the religion, its Founder and its
28 policies. An example of the dishonesty of defense counsel is

1 when they submitted to this Court Exhibit 500-HHHHH. This 1970,
2 French Government investigation report was authoed by an ex-Nazi,
3 who admitted doing no first hand investigation but relied on
4 other sources. Also, defense counsel failed to inform the Court
5 that the French court had reversed its findings that Scientology
6 was a fraud.

7 10. Julia Dragojevic's dishonesty with this Court is shown
8 by her Declaration. At the beginning of the trial, she said
9 that GERALD ARMSTRONG needed Flynn because Flynn knew the case
10 better, was more experienced and knowledgeable; and we were told
11 she had never tried a jury case. Now she is the "Scientology
12 expert" who is deserving of \$150.00 per hour. She is even claim-
13 ing \$150.00 per hour for the time she just sat in the Courtroom
14 during Flynn's trial. Julia Dragojevic's hours are inflated,
15 refex time spent on other matters and not relevant to this case
16 (see attached Exhibit "A").

17 11. Attorney fees could not be properly claimed because
18 GERALD ARMSTRONG thinks he exposed Scientology and L. Ron Hubbard
19 as frauds. This Court clearly ruled in the beginning of the
20 trial that Scientology was not on trial and that the Court would
21 not consider the truth or falsity of the contents of the
22 documents but only how they were relevant to ARMSTRONG'S "state
23 of mind." If the Court correctly followed this stated ruling,
24 it could not properly reach any conclusions regarding Scientology
25 or L. Ron Hubbard, and defense counsel could not receive fees for
26 this improper presentation.

27 12. At the beginning of the trial, plaintiff's counsel
28 warned the Court about allowing Michael Flynn to conduct the

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1 trial. Plaintiff made a motion to disqualify Flynn. Plaintiff
2 warned this Court that Flynn would conduct a heresy trial
3 against the CHURCH and a personal attack against L. Ron Hubbard.
4 Flynn did this under the pretext that he was going to show this
5 person and organization had unclean hands and was not entitled to
6 equitable relief. Defense counsel argued that an old order by
7 MARY SUE HUBBARD (GO-121669) gave her unclean hands that should
8 deny her relief in this case. This ridiculous legal position
9 is so contrary to black letter law that it does not deserve
10 further comment. What is incredulous is that defense counsel
11 seeks fees for presenting and arguing such a patently unsupported
12 legal position.

13 13. Defense counsel point repeatedly to what they call the
14 unclean hands of plaintiffs. This Court should be aware of the
15 true character and motives of Michael J. Flynn.

16 14. Plaintiff can not ignore Flynn's efforts to prejudice
17 this Court. Plaintiff also asks the Court to admonish counsel
18 for defendant and their client to immediately cease these
19 improper tactics, such as filing this fees motion, in their effort
20 to prejudice this Court. Plaintiff also requests the Court to
21 impose sanctions in the amount of attorneys' fees incurred by
22 plaintiff in replying to this frivolous motion for fees.

23 15. According to sworn declarations filed by attorney
24 Michael J. Flynn of Boston, Massachusetts, he is an attorney of
25 fourteen years experience in the State of Massachusetts who has
26 tried 40 to 50 jury trials since 1972. Approximately one-third
27 of Mr. Flynn's career, since mid-1979, has involved litigating
28 against the Church of Scientology and/or its Founder, L. Ron

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1 Hubbard. Mr. Flynn has been counsel of record, or counsel but
2 not of record, in cases being litigated in at least the states of
3 Massachusetts, New York, Florida, Nevada, Oregon and California
4 involving the Church. He has made appearances as counsel pro hae
5 vice in California three times in the past two years in suits
6 involving either Mr. Hubbard or the CHURCH.

7 16. Due to Mr. Flynn's legal attacks upon the Church of
8 Scientology, its members, practices and Founder, investigative
9 actions were undertaken by professional investigators. These
10 investigations revealed the following facts:

11 17. In early 1981 a document that laid out a scheme to
12 sell shares in litigation against the Church of Scientology was
13 drawn up in the law offices of Michael Flynn in Boston.

14 18. This document referred to Flynn Associates Management
15 Corporation, a for-profit Massachusetts corporation incorporated
16 on August 28, 1980 by Kevin Flynn, Michael Flynn and Cheryl
17 Flynn. (See attached Exhibit "B"). Kevin Flynn is the brother
18 of Michael Flynn and, at that time, worked as an investigator
19 or researcher for Michael. Cheryl Flynn is Kevin Flynn's wife.

20 19. The document stated: "Description: Flynn Associates
21 Management Corp. is a management consultant company. It was or-
22 ganized to manage and oversee the operations and strategy of
23 all Scientology litigation of Michael Flynn Associates." (See
24 attached Exhibit "C"). Other documents discarded at about the
25 same time from Mr. Flynn's office revealed that investors were
26 to be promised "a \$2.00 return for each \$1.00 invested."

27 20. Despite claims to the contrary by Michael Flynn,
28 attempts were made to sell shares. In an affidavit executed on

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1 October 13, 1981, Jim Grey of Clearwater, Florida, stated that
2 on October 2, 1981, Michael Flynn "offered me the position of
3 Trustee of Flynn Associate Management Corporation (FAMCO) in the
4 Clearwater area and told me that as a trustee, I would receive,
5 raise and disburse monies which would be used to file suits
6 against the CHURCH OF SCIENTOLOGY around the country and therefor
7 breack the CHURCH financially." (See attached Exhibit "D").

8 21. A FAMCO document obtained around the same time, en-
9 titled "Scientology - Review and Planning", demonstrated that the
10 above was an "All Out" strategy which included:

- 11 "a) closing orgs (orgs - Scientology organizations)
- 12 b) adverse media
- 13 c) adverse public
- 14 d) Fed & State attacks".

15 Following this "all out" strategy, Michael Flynn and FAMCO
16 engaged in the "adverse media" actions. From the deposition
17 testimony of both Kevin Flynn and deprogrammer Joseph Flanagan in
18 Garrison v. Kevin Flynn, et al. and Miller v. Kevin Flynn, et al.
19 the initiation of the "adverse public" strategy was also imple-
20 mented with the creation of new potential litigants. Kevin Flynn
21 operating out of the 12 Union Wharf offices of FAMCO and Michael
22 Flynn, solicited, organized and carried out several "deprogram-
23 mings" of Scientology parishioners. Following each successful
24 deprogramming, Kevin Flynn had the victim transported to the
25 Boston offices of Michael Flynn where the person was solicited
26 to join the suits filed against the CHURCH they had just departed.

27 22. This all out effort continued on into early 1982. Affi-
28 davits show that through co-conspirators, Michael Flynn obtained

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1 access to the Bank of New England where Church of Scientology
2 Founder L. R. Hubbard maintained a Cash Reserve Management account.
3 The conspirators obtained copies of several of Mr. Hubbard's
4 checks, as well as several checks from an unrelated Florida com-
5 pany, and hired Ala Fadili Al Tamimi to counterfeit and forge
6 these checks in the amount of \$2 million.

7 23. In a sworn statement, Ala Tamini has detailed how Mr. Flynn
8 promised him \$400,000 to pass the forged checks and pass the monies
9 received to an overseas account established by Mr. Flynn in the
10 Cayman Islands. Mr. Tamimi also related, in this same statement,
11 the treatening remarks made by Mr. Flynn regarding the safety of
12 Mr. Tamini's family. (See attached Exhibit "E").

13 24. Following the failure of the attempt to forge and pass
14 Mr. Hubbard's checks, Mr. Flynn then filed suit on behalf of
15 Ronald DeWolf, the estranged son of Mr. Hubbard, in Riverside,
16 California. The suit claimed that Mr. Hubbard was a missing
17 person under California probate codes and included charges that
18 Hubbard's business affairs were being mismanaged as evidenced
19 by the failed attempt to forge one of his checks. Flynn accused
20 Church officials of forging the check.

21 25. The investigation also discovered evidence that such
22 behavior by Mr. Flynn was not limited solely to litigation against
23 the CHURCH.

24 26. According to the Declaration of George Edgerly, executed
25 on March 5, 1984, in Bridgewater, Massachusetts, Mr. Flynn both
26 offered to pay Edgerly for his silence during two 1976 trials and
27 made intimidating statements regarding the safety of Mr.
28 Edgerly's children.

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1 27. Mr. Edgerly was the defendant in a criminal case for
2 fraud in Lowell, Massachusetts, in February and March, 1976. In
3 approximately March, 1976, Mr. Flynn approached Mr. Edgerly and
4 suggested that Edgerly not testify in his own defense, offering to pay
5 Edgerly's wife \$500.00 a week for every week that Edgerly spent
6 in prison. Edgerly accepted this proposal, was paid \$1,000.00 by
7 Mr. Flynn about two weeks later, and was sentenced to three to five
8 years in prison.

9 28. Between October and December, 1976, Mr. Edgerly was
10 again on trial, this time as a defendant to a charge of
11 conspiracy. One of his co-defendants was represented by Mr.
12 Flynn, both in this criminal suit and in a civil suit against
13 General Motors Corporation.

14 29. Again, during this trial, Mr. Flynn proposed to
15 Edgerly that he not testify and Edgerly agreed. Mr. Flynn
16 promised Edgerly a share of the recovery from General Motors
17 in exchange for his silence.

18 30. Later, during the trial, subsequent to Mr. Edgerly's
19 attorney being removed for a conflict of interest and Edgerly
20 beginning to represent himself, Edgerly decided that he was
21 being set up as the "fall guy" by Mr. Flynn and his co-defendants.
22 He began aggressively cross-examining his co-defendants. They,
23 and Mr. Flynn, became upset by this, resulting in Mr. Flynn's
24 offering to pay Edgerly \$18,000.00 immediately. The money was
25 not immediately forthcoming; Edgerly continued his aggressive
26 cross-examination; and Mr. Flynn then mentioned that he knew of
27 Edgerly's concern for his family, that he knew Edgerly had a lot

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1 of children who were little and that "one of them could be
2 hit by a car." Mr. Flynn made similar threatening remarks to
3 Edgerly's wife. (See attached Exhibit "F").

4 31. A fee request by defense counsel is not supported by
5 law as more fully discussed in the Opposition filed by inter-
6 venor. A request for fees is inappropriate in this case because
7 of counsel's conduct of this litigation and other attacks on
8 Scientology. It is plain to see that this litigation was not
9 brought and pursued for any public interest, but was part of
10 a general plan of attack on Scientology and an attempt by Flynn
11 to get documents for use in his other litigation.

12 I declare under penalty of perjury under the laws of the
13 State of California that the foregoing is true and correct.

14 Executed on July 30, 1984, at Beverly Hills, California.

15
16 
17 JOHN G. PETERSON

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